

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JESSICA BIBB,

Plaintiff,

v.

SHASTA COUNTY HEALTH AND  
HUMAN AGENCY, et al.,

Defendants.

No. 2:22-CV-01894-KJM-DMC

FINDINGS AND RECOMMENDATIONS

Plaintiff, who is proceeding pro se brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff's complaint, ECF No. 1.

The Court is required to screen complaints brought by litigants who have been granted leave to proceed in forma pauperis. See 28 U.S.C. § 1915(e)(2). Under this screening provision, a court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. §§ 1915(e)(2)(A), (B). Moreover, pursuant to Federal Rule of Civil Procedure 12(h)(3), this Court must dismiss an action if it determines that it lacks subject matter jurisdiction. Because Plaintiff has been granted leave to proceed in forma pauperis, the Court will screen the complaint pursuant to § 1915(e)(2). Pursuant to Rule 12(h)(3), the Court will also consider as a threshold matter whether it has subject-matter

1 jurisdiction.

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3 **I. PLAINTIFF'S ALLEGATIONS**

4 Plaintiff names the following as Defendants: (1) Alicia Endecott, social worker,  
5 (2) Christian Cumpston, social worker, (3) Molly Bigelow, Judge, (4) Tina Martinez, social  
6 worker, (5) Shasta County Counsel, (6) Diane Fisher, Deputy County Counsel, and (7) Jennifer  
7 Ayers, Public Defender. See ECF No. 1, pgs. 2-3. All Defendants are named in their individual  
8 capacities. See id.

9 Generally, Plaintiff claims her Fourteenth Amendment rights have been violated  
10 by the actions of Shasta County Child Protective Services (“CPS”) social workers and court  
11 officers. See ECF No. 1, pgs. 8-9. Plaintiff also claims that by CPS removing her children from  
12 her care, interviewing her children at school, and conducting a sexual assault examination of her  
13 child without her consent or presence, such actions constitute an unlawful search and seizure in  
14 violation of her Fourth Amendment rights. See id., pgs. 10-12. Plaintiff bases her contentions on  
15 Defendants’ actions taken pursuant to State law. Cal. Welf. & Inst. Code § 300, et seq.

16 Plaintiff alleges that CPS social workers have removed her children from her care  
17 without cause, have withheld information pertaining to her children, and conducted unlawful  
18 investigations with her children without her consent or presence. See ECF No. 1, pgs. 10-13.  
19 Plaintiff further asserts that Defendants have “blocked any and all meaningful access” to the  
20 juvenile court in various ways, including not providing her with proper notice of hearings, denied  
21 her physical and conversational contact with her child, and that Defendants have fabricated  
22 evidence against her. Id.; see also pgs. 8-9. Plaintiff also alleges that Defendant Bigelow, Shasta  
23 County Judge, “ignored” Plaintiff when she appeared in court before the Judge. Id., pgs. 10-11.

24 Plaintiff seeks the following relief: (1) immediate return of her children, (2) her  
25 constitutional rights acknowledged (3) that Defendants “suffer according to law,” (4) an audit and  
26 investigation into CPS’s corruption and the “kidnapping” of children “in plain sight illegally”  
27 stops, and (5) an apology from each of the Defendants. Id., pg. 14.

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## II. DISCUSSION

In considering whether a complaint states a claim, a court must accept all allegations of material fact in the complaint as true. See Erickson v. Pardus, 551 U.S. 89, 93-94 (2007). A court must also construe the alleged facts in the light most favorable to the plaintiff. See Scheuer v. Rhodes, 416 U.S. 232, 236 (1974), overruled on other grounds by Davis v. Scherer, 468 U.S. 183 (1984); see also Hosp. Bldg. Co. v. Rex Hosp. Trustees, 425 U.S. 738, 740 (1976); Barnett v. Centoni, 31 F.3d 813, 816 (9th Cir. 1994) (per curiam). Pro se pleadings are held to a less stringent standard than those drafted by lawyers. See Haines v. Kerner, 404 U.S. 519, 520 (1972). All ambiguities or doubts must also be resolved in the plaintiff's favor. See Jenkins v. McKeithen, 395 U.S. 411, 421 (1969). However, legally conclusory statements, not supported by actual factual allegations, need not be accepted. See Ashcroft v. Iqbal, 556 U.S. 662, 677-78 (2009).

As discussed below, the undersigned recommends abstaining from adjudicating Plaintiff's claims under Younger v. Harris, 401 U.S. 37 (1971)

Since there is a pending state court action on the child protective custody issues raised in Plaintiff's complaint, the undersigned must consider whether this action should be stayed or dismissed under the abstention doctrine established in Younger v. Harris, 401 U.S. 37 (1971).<sup>1</sup> Younger abstention is concerned with overlapping principles of equity, comity, and federalism and directs federal courts to abstain from granting injunctive or declaratory relief that would interfere with pending state or local court proceedings in certain situations. See Arevalo v. Hennessy, 882 F.3d 763, 765 (9th Cir. 2018); Gilbertson v. Albright, 381 F.3d 965, 973 (9th Cir. 2004). While Younger established that federal courts must refrain from enjoining or interfering with a parallel, pending criminal proceeding in state court, see Younger, 401 U.S. at 49-53, the doctrine has subsequently been extended to "particular state civil proceedings that are akin to criminal prosecutions . . . or that implicate a state's interest in enforcing the orders and judgments of its courts. . . .". Sprint Commc'ns, Inc. v. Jacobs, 571 U.S. 69, 70 (2013) (citations and

<sup>1</sup> A court can raise Younger abstention *sua sponte*. See San Remo Hotel v. City and Cty. of San Francisco, 145 F.3d 1095, 1103 n.5 (9th Cir. 1998).

1 quotations omitted). To warrant Younger abstention, a state civil action must fall into one of the  
2 above categories.

3 Claims under 42 U.S.C. § 1983 that turn on alleged violations of constitutional  
4 rights arising in the course of ongoing state court proceedings also implicate the same grounds for  
5 abstention. Gilbertson, 381 F.3d at 979-980. Therefore, in civil cases, Younger abstention is  
6 appropriate only when the state proceedings: (1) are ongoing, (2) are quasi-criminal enforcement  
7 actions or involve a state's interest in enforcing the orders and judgments of its courts,  
8 (3) implicate an important state interest, and (4) allow litigants to raise federal challenges.  
9 ReadyLink Healthcare, Inc. v. State Comp. Ins. Fund, 754 F.3d 754, 759 (9th Cir. 2014).

10 Civil enforcement proceedings are “akin to a criminal prosecution” when  
11 enforcement actions are initiated by the State to sanction the federal plaintiff (*i.e.*, the party  
12 challenging the state action) for some wrongful act. Sprint Commc’ns, Inc., 571 U.S. at 70. A  
13 state actor is routinely a party to the state proceeding and often initiates the action. See, e.g.,  
14 Moore v. Sims, 442 U.S. 415, 419-420 (1979) (state-initiated proceeding to gain custody of  
15 children allegedly abused by their parents). Investigations are commonly involved and often  
16 culminate in the filing of a formal complaint or charges. See id. at 429 (challenging  
17 constitutionality of statutorily authorized pre-seizure investigative procedures in federal  
18 complaint).

19 Moore v. Sims, 442 U.S. 415 (1979) is illustrative. In Moore, parents challenged  
20 the constitutionality of parts of the Texas Family Code that permitted removal of their children  
21 following allegations of child abuse. Id. at 418-20. Prior to the parents’ action, the state had  
22 initiated proceedings alleging child abuse, leading to an investigation and subsequent custody  
23 hearings. See id. The Supreme Court ultimately determined that the Federal District Court should  
24 not have exercised jurisdiction in the matter, and should have abstained under Younger. Id. at  
25 423-35. The facts here and Plaintiff’s claims are similar to those in Moore. Plaintiff is seeking  
26 an injunction for the return of her children. Based on Plaintiff’s allegations, the State of  
27 California has initiated some proceedings regarding the care of Plaintiff’s children, there has been  
28 an investigation, and there has been at least one hearing on the protective custody matter.

1 Further, since Plaintiff does not appear to have had her children returned, it is apparent that there  
2 are still ongoing state proceedings. It is clear from Plaintiff's complaint that the State of  
3 California has initiated a quasi-criminal enforcement action against Plaintiff regarding child  
4 protective custody issues.

5 Additionally, California has important state interests in enforcing judgments and  
6 orders concerning the parent-child relationship at issue. See Moore, 442 U.S. at 426 ("Family  
7 relations are a traditional area of state concern); H.C. ex rel. Gordon v. Koppel, 203 F.3d 610, 613  
8 (9th Cir. 2000) (noting "a state has a vital interest in protecting the authority of the judicial  
9 system, so that its orders and judgments are not rendered nugatory" especially regarding domestic  
10 relations "over which federal courts have no general jurisdiction, and in which the state courts  
11 have special expertise and experience"); Peterson v. Babbit, 708 F.2d 465, 466 (9th Cir. 1983)  
12 ("The strong state interest in domestic relation matters, the superior competence of state courts in  
13 settling family disputes because regulations and supervision of domestic relations within their  
14 borders is entrusted to the states, and the possibility of incompatible federal and state court  
15 decrees in cases of continuing judicial supervision by the state makes federal abstention in these  
16 cases appropriate."). Since this is a domestic issue, the State has a vested interest in this matter.

17 Plaintiff also has an adequate opportunity in the State court to raise federal  
18 questions and concerns that affect her constitutional rights. She has opportunities under  
19 California law to file motions or to request certain forms of relief from the State court to address  
20 any alleged violations of her constitutional rights relative to the child protective custody  
21 proceedings. Plaintiff asserts that she appeared on November 23, 2020, and appeared in court  
22 representing herself in that she has been "in school for 2 and a half years now for [sic] ultimately  
23 be a successful attorney," that she read to Defendant Judge Bigelow "a brief that she had written"  
24 that included the "false allegations" against her. ECF No. 1, pgs. 10-11. The State court is well-  
25 equipped to address Plaintiff's constitutional arguments and she may appeal any decisions by the  
26 State court to the California Supreme Court after final judgment. Coats v. Woods, 819 F.2d 236,  
27 237 (9th Cir. 1987) (finding no abuse of discretion for abstention because "[i]f the constitutional  
28 claims in [a child custody case] have independent merit, the state courts are competent to hear

1 them. . . .”).

2 Therefore, this is precisely the type of case suited to Younger abstention. Absent  
3 exceptional circumstances, district courts do not have discretion to avoid the doctrine if the  
4 elements of Younger abstention exist in a particular case. Green v. City of Tucson, 255 F.3d  
5 1086, 1093 (9th Cir.2001) (en banc) overruled on other grounds by Gilbertson, 381 F.3d 965. The  
6 recognized exceptional circumstances are limited to a showing of “bad faith, harassment, or some  
7 other extraordinary circumstance that would make abstention inappropriate.” Middlesex Cty.  
8 Ethics Comm. v. Garden State Bar Ass’n, 457 U.S. 423, 435 (1982)).

9 Here, Plaintiff alleges that Defendants “unlawfully detain[ed] and [held] her  
10 children against [her] will and without cause” and that on November 6, 2020, “the police and  
11 swat team arrived for domestic violence [and she] was told to come outside” but that “her kids  
12 appeared clean and healthy with no marks.” ECF No. 1, pgs. 8, 10. Plaintiff goes on to allege that  
13 Defendants have not performed the required investigations, have “crafted counterfeit  
14 allegation[s]” against her, interviewed her children at school without her presence, lied to get  
15 emergency removal orders, and performed a sexual assault examination on her child without  
16 parental consent or presence. Id., pgs. 11-12. Based on these vague and conclusory allegations,  
17 Plaintiff has not demonstrated a factually supported theory that Defendants have acted in bad  
18 faith, engaged in harassment, or involved some other extraordinary circumstance that would make  
19 abstention inappropriate in the ongoing state proceedings.

20 Thus, the undersigned finds no circumstances exist in this case that warrant  
21 application of the referenced exception to abstention.

22 Younger abstention applies differently to claims for monetary damages and claims  
23 for injunctive and declaratory relief. Where injunctive and declaratory relief is sought, a dismissal  
24 of those claims is appropriate. Gilbertson, 381 F.3d at 981. But where monetary damages are  
25 sought, the federal court should stay, rather than dismiss those claims, until after the state court  
26 proceedings are no longer pending. Id. at 981-82.

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1                   From Plaintiff's complaint, it appears she requests only injunctive and declaratory  
2 relief. Plaintiff seeks to have her children returned to her "immediately," an apology from  
3 Defendants, an audit and investigation into the "kidnapping" of children "in plain sight illegally,"  
4 her constitutional rights to be acknowledged, and for Defendants to "suffer the consequences of  
5 their violations according to the law." See ECF No. 1, pg. 14. From this, the undersigned does  
6 not construe her requests as seeking monetary damages. Therefore, because Plaintiff does not  
7 seek monetary damages, the proper course of action is to dismiss this matter without prejudice.  
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9                   **III. CONCLUSION**

10                  For the reasons stated above, the undersigned recommends as follows:

11                  1. Plaintiff's complaint be dismissed without prejudice as required by  
12 Younger v. Harris, 401 U.S. 37 (1971).

13                  2. Plaintiff's request for access to the Court's electronic filing system, ECF  
14 No. 3, be denied as moot.

15                  These findings and recommendations are submitted to the United States District  
16 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days  
17 after being served with these findings and recommendations, any party may file written  
18 objections with the court. Responses to objections shall be filed within 14 days after service of  
19 objections. Failure to file objections within the specified time may waive the right to appeal. See  
20 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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22                  Dated: April 11, 2023



23                  DENNIS M. COTA  
24                  UNITED STATES MAGISTRATE JUDGE  
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